

MEMORANDUM

FEBRUARY 18, 1982

ADJOURNED TO: FEBRUARY 19, 1982

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: LAFAYETTE PLACE PARKING GARAGE DOCUMENTS

In order to implement the construction of the public parking facility as part of the Lafayette Place Project, the City of Boston has entered into a number of agreements with the developer, Lafayette Place Parking Associates. These documents include a forty year lease pursuant to which the developer will construct and operate the facility for the City and will pay an annual rental to the City.

In order to facilitate the lease agreement, and in order to discharge its own responsibilities under the Tripartite Agreement of December 22, 1978, the Boston Redevelopment Authority has been asked to enter into a number of subsidiary agreements with the City and the developer. These are listed below, and copies of each are attached to this memorandum.

1. Supplemental Agreement and Amendment to the Land Disposition Agreement and Deed from the Boston Redevelopment Authority to the City of Boston which acknowledges that the garage will now be constructed by a private developer operating through a forty year lease from the City of Boston;
2. The Second Supplemental Agreement and Amendment to the Tripartite Agreement between the Boston Redevelopment Authority, the City of Boston, and Lafayette Place Associates, which amends said document to reflect the fact that the garage will now be built under a forty year lease to a private developer and amends the total project schedule.
3. The Deposit Agreement, in which the mechanism is established to control the City of Boston Capital funds necessary for the creation of plazas, walkways, and public circulation over the garage roof. Administration of these funds was established as a Boston Redevelopment Authority responsibility in the Tripartite Agreement.
4. An Agreement reaffirming that all of the original documents including the Boston Redevelopment Authority Deed, the LDA, the Tripartite Agreement, and the Sales and Construction Agreement, are still in full force and effect and that the Lender has specified times to cure any default that may occur in the future.

Lafayette Place Parking Garage Documents

February 18, 1982

The attached documents are necessary in order to effectuate the Lafayette Place Project. It is, therefore, recommended the Authority ratify and confirm the execution of these documents.

An appropriate vote follows:

VOTED: That the Authority hereby ratifies and confirms the execution of the attached four (4) agreements necessary for the construction of the Lafayette Place Garage and hereby authorizes the Director to execute subsidiary documents that may be necessary for the "final closing".

SUPPLEMENTAL AGREEMENT AND AMENDMENT

This Agreement is made as of , 1982, among the CITY OF BOSTON, a municipal corporation ("City"), acting by and through its Mayor and Real Property Board, the BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate ("BRA") organized under the laws of the Commonwealth of Massachusetts, LAFAYETTE PLACE ASSOCIATES, a Massachusetts limited partnership ("Air Rights Developer"), of which the present general partner is Mondev, Mass., Inc., a Massachusetts corporation, and LAFAYETTE PLACE PARKING ASSOCIATES, a Massachusetts limited partnership ("Garage Developer"), of which the present general partner is Commonwealth Parking, Inc., a Massachusetts corporation.

WHEREAS, by instrument entitled "LAND DISPOSITION AGREEMENT" ("LDA"), dated October 12, 1979, and recorded with Suffolk Deeds in Book 9288, Page 66, the City, the BRA, and the Air Rights Developer entered into arrangements for the sale and improvement of certain real estate on Washington Street in Boston, Massachusetts, and

WHEREAS, by instrument entitled "DEED" ("Deed"), dated October 12, 1979, and recorded with said Deeds at Book 9288, Page 38, the BRA conveyed said real estate to the City, and

WHEREAS, by instrument entitled "LAFAYETTE PLACE GARAGE FORTY-YEAR LEASE" ("Lease"), dated May 20, 1981, notice of which is to be recorded herewith, the City leased said real estate to Garage Developer and Garage Developer undertook the construction of structures and facilities for parking (the "Parking Garage"), and

WHEREAS, the parties find it necessary and desirable to enter into this Agreement in order to set forth their current relationships, which differ in certain material respects from their prior relationships as the result of execution of the Lease.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and intending hereby to be legally bound, it is agreed as follows:

(e) Subparagraph (c) of Section 401 is amended by:

(i) deleting the second paragraph of subsection (iii), which refers to mortgage loans not exceeding \$5,400,000, and

(ii) adding to the end of subsection (x) the following:

"The foregoing language is expressly intended to allow the total transfer of legal or beneficial interests among the general or limited partners in the partnership entities comprising Lafayette to the end that, following any such transfer, no particular general partner (other than Mondey Mass., Inc.) or limited partner need remain a general or limited partner of Lafayette."

(f) There is hereby added to Section 701 the following subparagraph:

c) Notwithstanding the foregoing provisions of subparagraph (a) of this Section 701 or any other provision of this Agreement to the contrary, if the City shall enter into a lease pursuant to which the lessee is obligated to build the City Improvements, then the rights and remedies of the Authority hereunder for a default in performance of the City's obligations shall be only such rights and remedies as may be provided to the City in any such lease, the City and the BRA hereby agreeing mutually to cooperate in the exercise of such rights and remedies. However, if and when the City shall terminate the lease and retake full possession of the premises demised thereby, the Authority shall have the rights and remedies for default by the City set forth in said subparagraph (a).

4. The Deed is hereby amended by deleting Section 4.

5. Notwithstanding any provision therein to the contrary, the LDA and the Deed may hereafter be amended by written agreement of the undersigned and their respective successors in interest to their rights and obligations thereunder, it being

the express intent hereof that any such amendment may be made and effective without the need for the consent of holders (e.g., but without limitation, tenants) of partial interests in all or part of the real estate subject to the LDA and Deed.

6. As hereby amended and/or supplemented the LDA and Deed shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written.

APPROVED AS TO FORM:

Corporation Counsel
City of Boston

APPROVED AS TO FORM:

General Counsel
Boston Redevelopment

WITNESS:

Matthew A. Coogan

WITNESS:

CITY OF BOSTON

By Revin H. White
Revin H. White
Mayor

CITY OF BOSTON

By: Real Property Board

By Bernard W. Callahan
Bernard W. Callahan
Commissioner of Real
Property Board
Chairman of
Real Property Board

BOSTON REDEVELOPMENT AUTHORITY

By Robert H. Ryan
Robert H. Ryan
Director

LAFAYETTE PLACE ASSOCIATES

By: Mondey Mass., Inc.,
general partner

By _____
Its

WITNESS:

LAFAYETTE PLACE PARKING
ASSOCIATES
By: Commonwealth Parking,
Inc.
general partner

By _____
Its

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk , 198

Then personally appeared the above-named Kevin H. White, Mayor, and Bernard W. Callahan, Commissioner, and acknowledged the foregoing instrument to be the free act and deed of the City of Boston.

Before me,

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk , 198

Then personally appeared the above-named Robert H. Ryan, Director of the Boston Redevelopment Authority, and acknowledged the foregoing instrument to be the free act and deed of the Boston Redevelopment Authority.

Before me,

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk , 198

Then personally appeared the above-named Peter A. Howlett, and acknowledged the foregoing instrument to be the free act and deed of Mondev Mass., Inc., as general

partner of Lafayette Place Associates.

Before me,

Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk

, 198

Then personally appeared the above-named
, and acknowledged the foregoing instrument
to be the free act and deed of Commonwealth Parking,
Inc., as general partner of Lafayette Place Parking Associates.

Before me,

Notary Public
My commission expires:

SECOND SUPPLEMENTAL AGREEMENT AND AMENDMENT

This Agreement is made as of _____, 1982, among the CITY OF BOSTON, a municipal corporation ("City"), acting by and through its Mayor and Real Property Board, the BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate ("BRA") organized under the laws of the Commonwealth of Massachusetts, and LAFAYETTE PLACE ASSOCIATES, a Massachusetts limited partnership ("Developer"), of which the present general partner is Mondev, Mass. Inc., a Massachusetts corporation.

WITNESSETH:

WHEREAS, the parties hereto or their predecessors have entered into: i) an agreement dated as of December 22, 1978 ("Tripartite Agreement"), and ii) an agreement dated as of June 1, 1979 ("Supplemental Agreement") supplementing the Tripartite Agreement, and iii) an agreement dated October 12, 1979 ("Survival Agreement") relative to the Tripartite Agreement and the Supplemental Agreement. Such agreements are herein collectively referred to as the "Founding Documents" and concern a private and public development ("Lafayette Place") along Washington Street in Boston, Massachusetts, and

WHEREAS, implementation of Lafayette Place has proceeded generally as contemplated by the Founding Documents but with certain changes and modifications, so that the parties desire hereby to set forth further supplemental agreements concerning and amendments to the Founding Documents.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and intending hereby to be legally bound, the parties hereto agree as follows:

1. Words capitalized but undefined herein shall have the same meaning given to them in the Founding Documents or in such other agreement as may be referred to in the Founding Documents.

2. Section 1.16. of the Tripartite Agreement is hereby deleted and in its place there is substituted the following:

"Section 1.16. Parking Garage. The term "Parking Garage" shall mean the public parking garage to be constructed and operated by or through the City pursuant to and more particularly described in Article V hereof."

3. Section 4.04. of the Tripartite Agreement is hereby deleted and in its place there is substituted the following:

"Section 4.04. Development. Developer shall commence construction of the Project not later than ninety (90) days after Substantial Completion of the Parking Garage. The Developer shall be entitled to commence construction of the Project prior to such Substantial Completion and the City shall recognize such right of the Developer in all of its contracts and undertakings affecting the Project to the end that such contracts and undertakings will encourage and permit early commencement of construction by the Developer and will obligate all parties to work harmoniously with the Developer."

4. Section 5.03. of the Tripartite Agreement is hereby deleted.

5. Subparagraph b) of Section 5.04. of the Tripartite Agreement is hereby deleted and in its place there is substituted the following:

"b) Temporary Surface Parking. Since the City has heretofore caused the Hayward Place Garage to be demolished, it is agreed that the City may provide on-grade parking on Parcels D-1, D-2, D-3 and D-4, provided that such parking shall only be temporary in nature (consistent with other provisions of this Agreement) and shall at all times be operated and maintained in a manner consistent with the quality of operation of the Project"

6. The following sentence is hereby added to subparagraph c) of Section 5.04. of the Tripartite Agreement:

" c) The parties acknowledge that the layout of New Essex Street (or however otherwise it may be designated) shall extend from Washington Street to the central artery as shown on Exhibit F."

7. The third sentence of the first paragraph of Section 5.05. and the second paragraph of Section 5.05. of the Tripartite Agreement (including Exhibit H) are hereby deleted. In lieu of said second paragraph there is substituted the following:

"If a private party shall construct the Parking Garage, the City shall have the right, itself or through independent professional consulting engineers, to monitor such construction to insure it is proceeding in accordance

with requirements of the City. In such case, such monitoring shall be carried out so as not to delay or interfere with such construction in any respect."

8. Section 5.08. of the Tripartite Agreement is hereby deleted and in its place there is substituted the following:

"Section 5.08. Plaza, Malls and Circulation System Budget. As used herein, the Plaza, Malls and Circulation System Budget is \$4,600,000."

9. Section 6.01. of the Tripartite Agreement is hereby deleted.

10. Section 6.02. of the Tripartite Agreement is hereby amended in the following respects:

a) In the first paragraph of that Section the following words appearing at the beginning of that paragraph are hereby deleted:

"In the event that the City shall determine to discontinue the Hayward Place Garage,...".

b) The second sentence of the first paragraph of that Section is hereby deleted and in its place there is substituted the following:

"No sale, transfer or other disposition of any such rights shall be made by the City until three (3) years from the date on which the City has given notice to the Developer of the extent, if any, to which the City has determined and agrees to create subsurface parking beyond that which is to be created hereunder.

c) There is hereby added after the end of the first sentence of the second paragraph of that Section the following:

"Said appraisals were prepared by John E. O'Neill and are dated July 25, 1978 and May 9, 1979".

d) The following paragraphs are hereby added to the end of that Section:

"Notwithstanding anything else above contained, if the Developer shall exercise the right and option set forth in this Section 6.02, there shall automatically be created an agreement by the Developer to buy and by the City to sell the aforesaid Parcels, except that, if a sale is not legally

possible, the provisions of Section 15.05 hereof shall apply. Consistent therewith, the parties acknowledge that the references above to the execution of a purchase and sale agreement are intended only to indicate that appropriate details of the purchase and sale shall be worked out by the parties so as to conform to their intent under this Section 6.02., but if they shall be unable to do so then the matter shall be resolved by arbitration in accordance with the arbitration procedure set forth in ARTICLE EIGHT of the Deed and Agreement, dated as of September 11, 1979, between the City and the Developer and recorded with Suffolk Deeds at Book 9288, Page 90."

11. The second paragraph of subparagraph (c) of Section 9.03. of the Tripartite Agreement is hereby deleted.

12. There is hereby added to subparagraph (j) of Section 9.03. of the Tripartite Agreement the following:

"The foregoing language is expressly intended to allow the total transfer of legal or beneficial interests among the general or limited partners in the partnership entities comprising the Developer to the end that, following any such transfer, no particular general partner (other than Mondev Mass., Inc.) or limited partner need remain a general or limited partner of the Developer."

13. There is hereby added to the end of Exhibit D to the Tripartite Agreement the following:

"6. The descriptions provided in paragraph C.1 and C.2, above, are of an approximate nature only, it being understood that the private components of the project which have been or may be approved by the Boston Redevelopment Authority pursuant to Section 4.03 of this Tripartite Agreement shall not be deemed inconsistent with the foregoing Development Program."

14. Notwithstanding any reference in the Founding Documents to the contrary (including the reference in the Supplemental Agreement to the New Master Schedule), for the purposes of the Founding Documents (including Section 3.01. of the Tripartite Agreement) the Master Schedule shall be the document attached hereto and labeled "Master Schedule Dated December 15, 1981".

15. Notwithstanding any provision therein to the contrary, the Founding Documents (and each of them) may hereafter be amended by written agreement of the undersigned and their

respective successors in interest to their rights and obligations thereunder, it being the express intent hereof that any such amendment may be made and shall be effective without the need for the consent of holders (e.g., but without limitation, tenants) of partial interests in all or part of the real estate subject to the Founding Documents.

16. As hereby amended and/or supplemented, the Founding Documents shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals as of the day and year first above written..

APPROVED AS TO FORM:

CITY OF BOSTON

Corporation Counsel
City of Boston

By 
Kevin H. White
Mayor

APPROVED AS TO FORM:

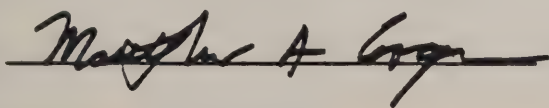
CITY OF BOSTON

By: Real Property Board

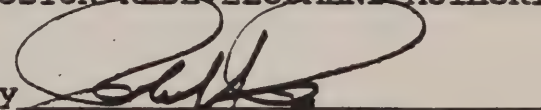
General Counsel
Boston Redevelopment Authority

By 
Bernard W. Callahan
Commissioner of Real
Property Board
Chairman of
Real Property Board

WITNESS:



BOSTON REDEVELOPMENT AUTHORITY

By 
Robert A. Ryan
Director

WITNESS:

LAFAYETTE PLACE ASSOCIATES
By: Mondey Mass., Inc.
general partner

By _____
Its Vice President

MASTER SCHEDULE DATED DECEMBER 15, 1981

I. <u>Final Approvals of Tripartite & Purchase Agreements</u>	<u>Accomplished On Or About:</u>
Boston Redevelopment Authority	November 16, 1978
Real Property Board	July 27, 1978
City Council	
. Tripartite & Purchase Agreements	October 11, 1978
. \$17m Loan Order	October 25, 1978
Mayor	October 30, 1978
II. <u>Execute Tripartite & Purchase Agreements</u>	
Boston Redevelopment Authority	December 22, 1978
Real Property Board	December 22, 1978
Mayor	December 22, 1978
III. <u>Execute Design Contract for Parking Garage</u>	
(Real Property and Desmond & Lord)	January 12, 1979
IV. <u>Execute Engineering Contract for Project Improvements</u>	
(BRA and Charles T. Main)	September 8, 1978
V. <u>Execute Construction Management Contract for Parking Garage</u>	
(Real Property and George Macomber & Co.)	April 15, 1979
VI. <u>Environmental Clearance</u>	
Final State Approval	December 15, 1978
Final Federal Approval	December 27, 1978
Approval of Project Commencement	January 15, 1979
VII. <u>Demolition of Annex Building by Jordan Marsh</u>	
Demolition Completion	August 15, 1979
VIII. <u>Parking Garage</u>	
A. CONTRACT #1	
(Excavation up to Avon Street--stopping perimeter of Site)	
. Prepare Plans & Specs to City	June 25, 1979
. Advertising	July 1-July 21, 1979
. Award Contract for work to begin within two weeks	July 27, 1979

VIII. Parking Garage, continued

Accomplished on or About:

B. CONTRACT #2

(Final excavation, sheeting, piles, pile caps)

- . Design Development
- . Prepare Plans & Specs to City
- . Advertising
- . Award Contract
- . Commence Work

June 4-August 5, 1979
September 5, 1979
September 15-October 4, 1979
October 14, 1979
October 24, 1979

C. CONTRACT #3

(Balance of Garage Construction)

- . Construction Plans & Specs
- . Advertising
- . Award contract, commence and complete construction

August 6-December 6, 1979
January 4-January 24, 1980

To be accomplished in
accordance with forty-year
lease

IX. Avenue de Lafayette

(Accomplished) or to be
Accomplished by the end
of:

A. Stage I (Washington to Kingston)

Contract S (Washington to Chauncy)

50% Completion
Re-hire Engineer
Re-hire Contractor
Complete Construction

(November 30, 1980)
April, 1982
April, 1982
November, 1982

Contract T (Chauncy to Kingston)

Design Work 80% Complete
Hire New Engineer
Complete Engineering
Advertise
Construction Begins
Construction Completed

(November 30, 1980)
April, 1982
June, 1982
July, 1982
August, 1982
August, 1983

Contract "U" (Final Site Landscape)

Hire New Engineer
Complete Engineering
Commence Construction
Complete Construction

April, 1982
October, 1982
March, 1983
December, 1983

B. Stage II (Kingston to Central Artery)

(Accomplished) or to be
Accomplished by the end
of:

Contract "V"

Hire Engineer Commence EIS	December, 1981
Complete EIS	December, 1982
<u>Start</u> Final Engineering	December, 1982
Complete Final Engineering	October, 1983
Award Bid & Start Construction	October, 1983
Complete Construction	April, 1984

Land Takings Needed for Avenue de Lafayette Phase 2

Re-commence Appraisals	December, 1981
Commence Land Taking	April, 1982
Complete Land Taking	August, 1982
Commence Business Relocation	August, 1982
Complete Business Relocation	June, 1983
Commence Demolition	July, 1983
Ready for Construction	October, 1983

X. Street Discontinuances

(Avon Street, Bedford Street, Exeter Place,
Hayward Place, Chickering Place,
Norfolk Place and Harrison Avenue Ext.)

. PIC decision and record order (June 30, 1979)

XI. Bedford and Chauncy Street Widenings

. PIC decision and record order (June 30, 1981)
. Construction (October 15-June 30, 1981)

XII. Hayward Place Garage/Demolition

. Plans and Specifications (June 30, 1979)
. Advertise (July 9- July 30, 1979)
. Award Contract (August 6, 1979)
. Demolition (August 15, 1979-
November 15, 1979)

XIII. MBTA Kiosk

. 30% Review Plans December, 1981
. 100% Complete May, 1982
. Construction Starts June, 1982
. Construction Complete March, 1983

XIV. Other Project Improvements by BRA

- . Design (January 1, 1980-
July 1, 1981)
- . Plans and Specifications (July 15, 1981-
October 15, 1981)
- . Construction November 15, 1981-
October 15, 1982

XV. Developer's Improvements

- . Design Start: July 15, 1977-
April, 1982
- . Commencement of Construction Not later than
90 days from
substantial completion
of parking garage
as per Tripartite
Agreement

DEPOSIT AGREEMENT

Deposit Agreement (the "Deposit Agreement") dated as of February 1, 1982 among the City of Boston (the "City"), acting by its Real Property Board, its Collector-Treasurer and its Auditor, the Boston Redevelopment Authority (the "BRA"), Lafayette Place Associates, a Massachusetts limited partnership ("Lafayette"), Lafayette Place Parking Associates, a Massachusetts limited partnership ("Parking Associates"), Shawmut Bank of Boston, N.A. (the "Bank") and Manufacturers Hanover Trust Company, a New York banking corporation (solely in its capacity as the New York correspondent of the Bank, the "Depository").

WITNESSETH

Whereas, by a certain agreement dated December 22, 1978 (as heretofore or hereafter amended or supplemented, the "Tripartite Agreement"), the BRA has undertaken, among other things, responsibility for payment of the cost of certain municipal improvements (the "Plaza, Malls and Circulation System", as defined in Section 5.07 of the Tripartite Agreement), the moneys for which are to be obtained through the issuance of general obligation bonds of the City heretofore authorized; and

Whereas, under the Tripartite Agreement, the City has undertaken, among other things, responsibility relative to completion of a municipal parking facility (the "Parking Garage", as defined in the Tripartite Agreement) and, without limitation, to expend appropriate moneys therefor, such moneys to be raised, in part, by the issuance of general obligation bonds of the City in the amount of \$17,000,000; and

Whereas, pursuant to a certain Lease (the "Lease") dated May 20, 1981, Parking Associates, as Lessee thereunder, has undertaken the construction on behalf of the City of the Parking Garage and the City has agreed to lease the Parking Garage to Parking Associates under the terms and conditions of the Lease; and

Whereas, the City, BRA, Lafayette, the Bank and the Depository have heretofore executed and delivered a certain Deposit Agreement dated May 20, 1981 (the "Prior Agreement") pursuant to which the BRA agreed to deposit with the Depository certain funds to be applied to the payment of part of the cost of the Plaza, Malls and Circulation System, such funds to consist of an amount equal to \$4,600,000 (together with the investment earnings thereon (subject to any appropriation thereof required by law), herein called the "City Deposit"), and also pursuant to which the Real Property Board of the City agreed to deposit \$1,450,000 (together with the investment earnings thereon (subject to any appropriation thereof required by law), herein called the "RPB Deposit") to perform (and to be used solely for) its obligation under the Tripartite Agreement and Exhibit A attached hereto relative to payment for costs incurred in connection with the Parking Garage (said City Deposit and said RPB Deposit herein collectively referred to as the "Deposit"); and

Whereas, the City, BRA, Parking Associates and the law firm of McCormack & Zimble, as Escrow Agent, have heretofore entered into a certain Escrow Agreement dated May 20, 1981 (the "Escrow Agreement") pursuant to which the Prior Agreement and certain other documents, instruments, letters and certificates (in the Escrow Agreement defined as the "Escrowed Documents") are being held in escrow by the Escrow

Agent pending the satisfaction of certain preconditions to their release from escrow (such release defined herein as the "Escrow Release"); and

Whereas, in order to further confirm the payment by the City of the Deposit, the parties hereto desire to ratify their respective obligations under the Prior Agreement and, as further security for the payment of the City Deposit, the City, the Bank, Lafayette and the Depository are, simultaneously with the execution and delivery of this Deposit Agreement, executing and delivering a certain Credit Agreement dated as of the date hereof (the "Credit Agreement") pursuant to which the Bank is concurrently issuing herewith to Lafayette an irrevocable standby letter of credit (the "Letter of Credit") in an original face amount equal to the amount of the City Deposit.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements set forth herein, in the Tripartite Agreement, the Lease and the Escrowed Documents, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. The Deposit. The City ratifies and confirms its obligation set forth in the Prior Agreement and referred to in the Escrowed Documents to make the Deposit. The Deposit shall be made by the City at the times and in the manner described in this Deposit Agreement. All amounts deposited with the Bank hereunder by the City on account of the RPB Deposit shall, at the times provided herein, be transferred to and held by the Depository (for the account of the Bank) in a separate account entitled the "RPB Account" to be applied solely as provided herein and in the Escrowed Documents. All amounts deposited with the

Bank hereunder by (or for the account of) the City on account of the City Deposit shall, at the times provided herein, be transferred to and held by the Depository (for the account of the Bank) in a separate account entitled the "City Account" to be applied solely as provided herein and in the Escrowed Documents.

Section 2. Confirmation of Obligations. Except as otherwise provided herein, the parties hereto ratify and confirm their respective obligations relating to the Deposit under the Prior Agreement and the Escrowed Documents, to wit:

a) The BRA confirms and agrees to perform its obligations under the Tripartite Agreement relative to the Plaza, Malls and Circulation System. The BRA, the City and Lafayette further confirm and agree that the portion of the Deposit held in the City Account shall be used only for such purpose.

b) The City confirms and agrees to perform its obligations under the Tripartite Agreement and under Exhibit A attached hereto relative to payment of costs incurred in connection with the design and completion of such elements of the Parking Garage as are specified in said Exhibit A. The City and Parking Associates further confirm and agree that the portion of the Deposit held in the RPB Account shall be used only for such purpose. The City and Parking Associates together shall have the right from time to time to amend Exhibit A hereto by a writing signed by their respective authorized officers and upon execution and delivery of such amendment the most recent amendment of Exhibit A shall govern the rights of the parties hereunder relative to the RPB Account. Nothing herein, including the amount or availability of the RPB Deposit, shall

in any way affect the obligations of the City contained in the Escrowed Documents for the payment of the percentages of the costs of the elements of the Parking Garage specified in said Exhibit A.

c) Funds held in the City Account shall be disbursed to or on the order of Lafayette from time to time upon presentation to the Depository of a statement designated as "Approved" by the architect and/or general contractor acting for Lafayette, setting forth expenditures theretofore made by Lafayette or on its behalf in causing the design and/or construction of the Plaza, Malls and Circulation System. Such statement shall also be designated as "Approved" by the Collector-Treasurer and Auditor of the City (or, in the absence of either thereof, the duly authorized deputy thereof) and shall request disbursement by the Depository of an amount not in excess of such expenditures, except that no more than 15% of the portion of the Deposit held in the City Account may be requested to be disbursed prior to commencement of construction of the Plaza, Malls and Circulation System. A certificate of Lafayette signed by its authorized officer and delivered to the City, the Bank and the Depository to the effect that construction of the Plaza, Malls and Circulation System has commenced shall be conclusive evidence of such commencement. The City (and, to the extent necessary or appropriate, the Bank) hereby authorizes and directs the Depository to pay to Lafayette the amount requested in such statement (to the extent it is then holding sums sufficient therefor in the City Account) within three (3) business days after receipt by the Depository of such statement.

d) Funds held in the RPB Account shall be disbursed to or on the order of Parking Associates from time to time upon presentation to the

Depository of a statement designated as "Approved" by the architect and/or general contractor for the Parking Garage, setting forth expenditures made by Parking Associates or on its behalf in causing the design and construction of the portions of the Parking Garage enumerated on Exhibit A. Such statement shall also be designated as "Approved" by the Collector-Treasurer and Auditor of the City (or, in the absence of either, the duly authorized deputy thereof) and shall request disbursement by Depository of an amount not in excess of such expenditures. The City (and, to the extent necessary or appropriate, the Bank) hereby authorizes and directs the Depository to pay to Parking Associates the amount requested in such statement (to the extent it is then holding sums sufficient therefor in the RPB Account) within three (3) business days after receipt by the Depository of such statement.

e) To the extent permitted by law, the City agrees to cause its Collector-Treasurer and Auditor to approve (or cause their duly authorized deputies to approve) any statement delivered by Lafayette or by Parking Associates to said officers under either or both paragraphs (c) and (d) of this section within three business (3) days after delivery of such statement to such officers, or to any authorized representative of either, unless the said officers shall have been notified by the Director of the BRA (as to statements under said paragraph (c)) or by the Chairman of the Real Property Board (as to statements under said clause (d)) that any amount disbursed to Lafayette or Parking Associates, as the case may be, under any statements so delivered within 45 days prior to the most current statement then in process was not properly applied with respect to the work covered by such prior statement. Notwithstanding the fore-

going, the said Collector-Treasurer and Auditor shall not be obligated to approve the statement requesting the balance of all funds under this Deposit Agreement in the RPB Account and the City Account until an audit of all prior statements has been made, which the City agrees to do or cause to be done no later than 45 days after submission of the final statement.

f) The City agrees to promptly furnish to Lafayette and Parking Associates, as applicable, a copy of any notice from the Director of the BRA or the Chairman of the Real Property Board under clause (e) hereof, which notice shall contain a detailed statement of the alleged improper application of any amount disbursed under a prior statement.

Section 3. The RPB Deposit.

a) Simultaneously with the execution and delivery of this Deposit Agreement, the City shall deposit with the Bank an amount equal to the RPB Deposit. Such amount shall be held by the Bank for the account of the City subject to the terms of this Deposit Agreement separate and apart from all other funds of the City.

b) Simultaneously with the Escrow Release, the Bank shall transfer the RPB Deposit (together with any income or other profit earned on the investment thereof subsequent to the date hereof) to the Depository to be held in the RPB Account and applied as provided herein and in the Escrowed Documents; provided, however, that if the Escrow Release shall not have occurred on or prior to March 15, 1982, the Bank, at the written direction of the City signed by its Collector-Treasurer and Auditor, shall on March 16, 1982 (or such later date as the City shall direct) repay the RPB Deposit to the City.

c) The RPB Deposit shall be invested by the Bank (or the Depository at the request of the Bank) at the direction of the City and in such investments as the City shall direct maturing or redeemable at the option of the holder at times and in amounts as may be necessary to provide sufficient moneys to meet the payments from the RPB Account. The City agrees to consult with Lafayette as to the nature of all such investments prior to giving any direction to the Bank. All income and other profit on the investment of the RPB Deposit shall be deposited in the RPB Account and applied to the purposes of such Account (subject to any appropriation therefor required by law) in accordance with instructions from time to time given by the City in accordance herewith.

d) Statements of account of the RPB Account shall be furnished by the Bank (or by the Depository at the direction of the Bank) to the City and Parking Associates at such times, no more often than monthly, as either the City or Parking Associates shall request.

Section 4. The City Deposit.

a) Except as otherwise provided in Section 5 hereof, the City agrees to deposit with the Bank on or before the Installment Deposit Dates set forth in Exhibit B hereto installment payments (the "Installments") of the City Deposit in the respective amounts on each Installment Deposit Date set forth in said Exhibit B. All such Installments shall be transferred by the Bank to the Depository to be held in the City Account and applied as provided herein and in the Escrowed Documents. For purposes of the Credit Agreement, the Bank shall promptly upon receipt of any Installment hereunder give notice of such receipt and the amount thereof to Lafayette.

b) Simultaneously with the Escrow Release, the City agrees to deposit with the Bank an amount equal to \$600,000 (the "Reserve Deposit"), which amount shall be held by the Bank in a separate account in the name of the City designated herein as the "Reserve Account". All amounts on deposit in the Reserve Account shall be applied as provided herein.

c) If on any Installment Deposit Date, the City shall fail to deposit with the Bank the Installment due on such date, the Bank shall give notice of such failure to the City, the Depository and Lafayette. Whether or not such notice is given, if such failure by the City shall not be remedied by 11:00 a.m. on the fifth business day succeeding the Installment Deposit Date, Lafayette (or the Depository as agent for Lafayette), in accordance with the Letter of Credit, shall draw upon the Letter of Credit an amount equal to the City Deposit less (i) the aggregate amount of all Installments theretofore received by the Bank from the City and (ii) the amount then on deposit in the Reserve Account (which amount shall thereupon be (and is hereby authorized to be) transferred by the Bank to the Depository for deposit in the City Account to be thereafter applied as provided herein and in the Escrowed Documents for moneys in the City Account). All amounts drawn on the Letter of Credit by Lafayette shall be paid by the Bank to the Depository for deposit in the City Account and applied as provided herein and in the Escrowed Documents for moneys in the City Account. Such drawing and deposit shall constitute full satisfaction of any and all obligations hereunder on the part of the City to make the City Deposit and the Installments thereof.

d) No delay or omission of Lafayette to draw upon the Letter of Credit upon a failure by the City under this Deposit Agreement shall be construed as a waiver of such failure or an acquiescence therein or otherwise affect the obligation of the City hereunder and under the Escrowed Documents to make the City Deposit and the Installments thereof in the amounts and at the times provided herein, which obligation, to the extent permitted by law, is unconditional. Without limiting the foregoing (and in addition to any other remedies therefor which Lafayette may have hereunder, under the Escrowed Documents or otherwise), if the City shall fail to deposit any Installment at the time and in the amount required by this Deposit Agreement and thereafter Lafayette shall be prevented from drawing on the Letter of Credit due solely to an inability of Lafayette to obtain a satisfactory opinion of counsel as required by the Letter of Credit and Exhibit 2 thereto, the City agrees that such Installment (and any subsequent Installments which the City shall also fail to deposit as provided herein) shall bear interest retroactively from the Installment Deposit Date of such Installment (or Installments) until deposited with the Bank hereunder at a rate of interest per annum equal to the sum of one hundred per cent (100%) of the Bank's "Prime Rate" (as defined in the Credit Agreement) in effect on such Installment Deposit Date plus three-quarters of one per cent (0.75%). Such interest shall be an additional obligation of the City hereunder payable when the Installment to which it is applicable is paid by the City and shall be paid by the Bank directly to Lafayette. Except as provided in the foregoing provisions of this paragraph, the City Deposit and the Installments thereof shall not otherwise bear interest.

e) On or before the Effective Date of the Letter of Credit, as defined in the Credit Agreement, Lafayette shall pay to the Bank the Commission on the Letter of Credit (as defined in the Credit Agreement). The obligation of Lafayette to pay such Commission shall be absolute and unconditional whether or not Lafayette receives reimbursement therefor as provided in paragraph (f) of this section.

f) Amounts on deposit in the City Account and the Reserve Account shall be invested by the Bank (or by the Depository at the request of the Bank) at the direction of the City and in such investments as the City shall direct maturing or redeemable at the option of the holder at times and in amounts as may be necessary to provide sufficient moneys to meet the payments from the City Account and the Reserve Account. The City agrees to consult with Lafayette as to the nature of all such investments prior to giving any direction to the Bank. All income and other profits earned on investment of the City Account and the Reserve Account shall be paid (subject to any appropriation therefor required by law) first, to Lafayette, at its written request, to the extent of (i) the Commission paid by Lafayette with respect to the Letter of Credit (with interest on the amount of such Commission (or any unreimbursed part thereof) from the date of payment of such Commission to the date of reimbursement therefor (or for any such part) at the rate of twelve percent (12%) per annum) and (ii) any expenses of the Bank and the Depository paid by Lafayette in accordance with Section 7 hereof (with interest thereon from the date of payment by Lafayette at the same rate), second, to the Reserve Account to the extent the balance therein is less than the amount of the Reserve Deposit and, third, to the City

Account to be applied to the purposes of such Account (provided any such amount deposited in the City Account shall not affect or reduce the obligation of the City to pay the Installments in the amounts and on the dates provided herein).

f) Simultaneously with the making by the City of the final Installment due hereunder, or otherwise upon satisfaction of the City's obligations with respect to the City Deposit (other than by a drawing under the Letter of Credit), the Bank shall repay to the City the entire amount then on deposit in the Reserve Account; provided that the City may, by written notice to the Bank, direct the Bank to apply any or all of the amount on deposit in the Reserve Account to the payment of one or more of the final Installments due under this Deposit Agreement in inverse order of such Installments.

g) Statements of account of the City Account and the Reserve Account shall be furnished by the Bank (or by the Depository at the direction of the Bank) to the City and Lafayette at such times, no more often than monthly, as either the City or Lafayette shall request.

Section 5. Covenant of the City. The City hereby covenants and agrees with Lafayette that if at any time prior to the making of the final Installment by it hereunder (unless the City's obligation for the Installments shall be satisfied by a drawing under the Letter of Credit), the City shall issue and sell any bonds of the City for capital purposes, or shall issue any notes in anticipation of such bonds, the City shall, to the extent permitted by law, include within such borrowing the Bonds (as defined in the Credit Agreement), or notes in anticipation of the Bonds, in amounts sufficient to pay all then remaining Installments

due hereunder. Upon receipt of the proceeds of any such borrowing, the City agrees to immediately pay to the Bank for transfer to the Depository for deposit in the City Account an amount of such proceeds equal to the amount of all unpaid Installments (less the amount then on deposit in the Reserve Account if so elected by the City in accordance with paragraph (f) of Section 4 hereof) in full satisfaction of the City Deposit. For purposes of this Section, a borrowing by the City for "capital purposes" shall mean the incurrence by the City of indebtedness for borrowed money for any purpose other than indebtedness in anticipation of its current revenue or indebtedness incurred to pay (or reimburse) refunds on account of tax abatements.

Section 6. Confirmation of Escrow Agreement.

a) By their execution and delivery of this Deposit Agreement, the parties hereto confirm and ratify their respective obligations, warranties and agreements under the Escrow Agreement and under the Escrowed Documents. Upon such execution and delivery and upon the delivery of four executed counterparts hereof to the Escrow Agent, evidenced by the execution by the Escrow Agent of the Acknowledgement hereon, the Prior Agreement shall be void and superceded by this Deposit Agreement and thereafter the parties hereto shall be governed by the terms of this Deposit Agreement subject to the terms of the Escrow Agreement. Reference in any of the Escrowed Documents to the "Deposit Agreement" shall, following said delivery hereof to the Escrow Agent, mean this Deposit Agreement. To the extent any provision of the Escrowed Documents shall be inconsistent with this Deposit Agreement, the provisions hereof shall prevail.

b) The City and Parking Associates acknowledge that Page 5 of and Exhibit A (DEMISED PREMISES) to the Escrowed Document entitled "Lafayette Place Garage Forty-Year Lease" dated May 20, 1981, have been modified and that the modifications, in the forms attached hereto as Exhibit C, are now to be substituted by the Escrow Agent so that said Escrowed Document will, when released pursuant to the Escrow Agreement, be in its modified form.

c) For purposes of Section 4 of the Escrow Agreement, the parties hereto agree that, upon the delivery of this Deposit Agreement to the Escrow Agent as aforesaid, the "Date" referred to in said Section 4 of the Escrow Agreement shall mean March 15, 1982. Notwithstanding anything in Section 4 of the Escrow Agreement to the contrary, upon the occurrence of the Date under the Escrow Agreement, the Escrow Agent shall deliver one executed counterpart of this Deposit Agreement to Parking Associates.

Section 7. Expenses. All expenses of any party hereto incident to the execution, delivery and performance by such party of this Deposit Agreement, including all fees and expenses of any counsel retained by any such party, shall be paid by such party; provided, however, that Lafayette agrees to pay all expenses, including reasonable fees of counsel, of the Depository incident to its execution and delivery of this Deposit Agreement and the Credit Agreement and also agrees to pay to the Depository reasonable compensation, as determined by Lafayette and the Depository, for the administration of this Deposit Agreement by the Depository during the term hereof. All such expenses and compensation paid by Lafayette shall be subject to reimbursement as provided in Section 4 hereof.

Section 8. Liability of Bank and Depository; Indemnity.

a) The Bank and the Depository, respectively, and all of their respective officers or directors, shall not be liable or responsible for any action taken or omitted by it hereunder in good faith and in the reasonable belief that such action taken or omitted by it is authorized or within the discretion or rights or powers conferred upon it by this Deposit Agreement, except for its own negligence or willful default. Neither the Bank nor the Depository shall be under any obligation or duty to perform any act hereunder which would involve it in expense or liability or to advance any of its own moneys, unless properly indemnified, or, except to the extent expressly provided herein, to account for the proper application of any moneys deposited with it or disbursed by it hereunder. The foregoing shall not, however, affect the obligations of the Bank under the Letter of Credit or the Credit Agreement, which instruments shall be governed solely by the terms thereof. As between the City and Lafayette, Lafayette hereby assumes all risks of its acts and omissions and the acts and omissions of the Depository with respect to its use of the Letter of Credit.

b) Both the Bank and the Depository shall be fully protected in acting upon any notice, consent, statement, opinion or other paper or document believed by it to be genuine and to have been signed or presented by the proper party, including any statement delivered to the Depository in accordance with clauses (c) and (d) of Section 2 hereof. Either the Bank or the Depository may consult with counsel, who may or may not be counsel to any other party hereunder, and the opinion of such counsel shall be full and complete authorization and protection in

respect of any action taken or omitted by it hereunder in good faith and in accordance herewith.

c) Lafayette hereby agrees to indemnify and hold harmless the Bank and the Depository, respectively, from and against any and all claims, damages (direct as opposed to consequential), losses, liabilities, costs or expenses whatsoever which the Bank or the Depository may incur by reason of or in connection with the execution, delivery and performance by the Bank and the Depository of this Agreement except as provided in the first sentence of Section 8 (a) hereof.

Section 9. Amendment. Except as otherwise provided herein, this Deposit Agreement may only be amended in writing by the parties hereto, provided that, prior to the Escrow Release, no such amendment shall be effective until delivered to the Escrow Agent in accordance with the Escrow Agreement.

Section 10. Term.

a) The term of this Deposit Agreement shall be from the execution and delivery hereof to the Escrow Agent (and execution by the Escrow Agent of the Acknowledgement hereon) until the satisfaction by the parties hereto of their respective obligations hereunder as evidenced as hereinafter provided. The City, BRA, Lafayette and Parking Associates shall promptly deliver to the Bank and the Depository, upon their mutual satisfaction that they have each performed hereunder, a signed acknowledgement of such satisfaction and upon receipt of such acknowledgement by the Bank and the Depository, this Deposit Agreement shall terminate (provided, however, that the respective obligations of the City and Lafayette for the payment of expenses and indemnity as provided in

Sections 7 and 8 hereof shall survive any termination of this Deposit Agreement). Upon such termination, the Depository shall transfer to the Bank and the Bank shall repay to the City all amounts on deposit in the RPB Account, the City Account and the Reserve Account.

b) Notwithstanding the foregoing, if the Escrow Release shall not have occurred on or prior to March 15, 1982, this Deposit Agreement, unless otherwise extended by written amendment by the parties hereto, shall terminate.

c) Termination of this Deposit Agreement shall not affect the obligations of the City, the Bank, the Depository and Lafayette under the Credit Agreement and the Letter of Credit, which obligations shall be governed solely by the terms of such instruments.

Section 11. Notices. All notices or other communications hereunder shall be deemed to have been duly given or made when delivered or mailed, first-class, postage prepaid, to the following addresses (and, in the case of the City, to each of the addressees named below) or to any other address of which any party hereto shall have notified the person giving such notice in writing:

City

City Hall
Boston, Massachusetts 02201
Attn: City Treasurer, Rm M-5
Attn: City Auditor, Rm M-5
Attn: Corporation Counsel,
6th Floor
Attn: Chairman, Real Property
Board, 8th Floor

BRA

City Hall, 9th Floor
Boston, Massachusetts 02201
Attn: Director

Lafayette
and
Parking Associates

One Boston Place
Boston, Massachusetts 02109
Attn: Peter Howlett

Bank

One Federal Street
Boston, Massachusetts 02211
Attn: Municipal Finance Department

Depository

270 Park Avenue
New York, New York 10017
Attn: W. Geoffrey Grout, V.P.

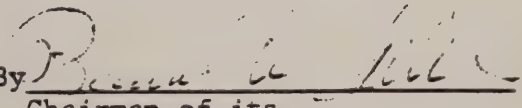
Section 12. Severability. In case any one or more of the provisions contained in this Deposit Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions herein shall not in any way be affected or impaired thereby.

Section 13. Governing Law. This Deposit Agreement shall be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts.

Section 14. Counterparts. This Deposit Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Deposit Agreement to be executed under seal by their respective authorized officers as of the day and year first above written.

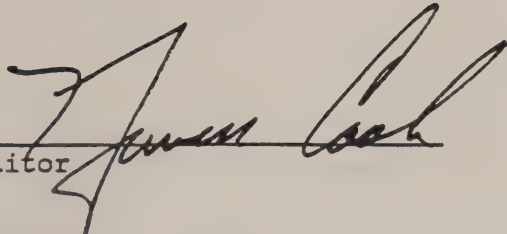
CITY OF BOSTON

By 
Chairman of its
Real Property Board

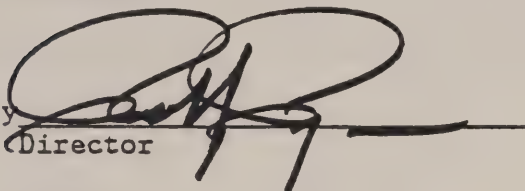
Approved:


Mayor

By _____
Collector-Treasurer

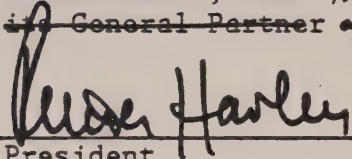
By 
Auditor

BOSTON REDEVELOPMENT
AUTHORITY

By 
Director

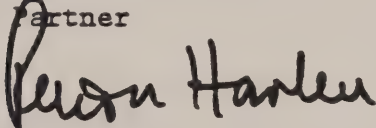
LAFAYETTE PLACE ASSOCIATES

By: ~~Mondor Mass., Inc.~~ *Mondor International, Ltd. a*
its General Partner agent for Lafayette Place Assoc

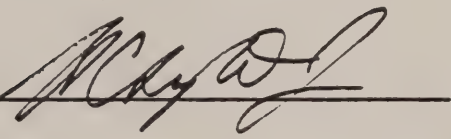
By 
Eugene Vice President

LAFAYETTE PLACE PARKING
ASSOCIATES

By: Commonwealth Parking
Inc., its General
Partner

By 
President

SHAWMUT BANK OF
BOSTON, N.A.

By 

MANUFACTURERS HANOVER
TRUST COMPANY,
as Depository

By 

Acknowledgement

McCormack & Zimble, Escrow Agent under the Escrow Agreement referred to in the above Deposit Agreement, acknowledges receipt of four executed counterparts of the Deposit Agreement, which instruments shall be held by the Escrow Agent in accordance with the terms of the Escrow Agreement.

McCORMACK & ZIMBLE

By Myron R. Katz, P.C.

Exhibit A

This City shall be responsible for payment of the following percentages of all costs necessary to design and complete in usable fashion the following elements to the Parking Garage and all matters associated therewith:

1. All escalators - 1 up and 1 down in each location (100%)
2. All elevators and Machine Rooms (40%)
3. Parking Garage roof (air rights platform)
 - (a) Insulation over structural deck - Retail Area (100%)
 - (b) Waterproofing over structural deck - Plaza Area (100%)
 - (c) Concrete topping with steel trowel finish over insulation in Retail Area ready to receive floor finishes (100%)
4. All Supply and Exhaust Fan Systems and Mechanical/Electrical Extensions (100%)
5. Interior & Exterior Signage (100%)
6. Design fee of 6% of all costs associated with the foregoing.

Installments Due on the City Deposit

<u>Installment Deposit Date</u>	<u>Amount of Installment</u>
April 1, 1982	\$ 200,000
May 1, 1982	200,000
June 1, 1982	250,000
July 1, 1982	250,000
August 1, 1982	300,000
September 1, 1982	300,000
October 1, 1982	-0-
November 1, 1982	800,000
December 1, 1982	700,000
January 1, 1983	350,000
February 1, 1983	350,000
March 1, 1983	350,000
April 1, 1983	350,000
May 1, 1983	200,000

STATEMENT AND AGREEMENT

BOSTON REDEVELOPMENT AUTHORITY ("BRA"), to induce Manufacturers Hanover Trust Company ("Lender") to make a loan ("Loan I") of up to \$13,800,000 to Lafayette Place Parking Associates ("Parking Associates") to finance the construction of a three level, 1050-car parking facility ("Improvements I") on premises ("Premises I") located in Boston, Massachusetts more particularly described on Exhibit A attached hereto, which are leased by Borrower from the City of Boston under that certain Lafayette Place Garage Forty-Year Lease dated May 20, 1981, as heretofore amended ("Lease"), and to induce Lender to make a loan ("Loan II") of up to \$66,000,000 to Lafayette Place Associates ("Place Associates") to finance the construction of a multi-use complex consisting of a multi-story hotel and a 3-story retail building, among other things (collectively, "Improvements II"), on premises ("Premises II") located in Boston, Massachusetts more particularly described on Exhibit B attached hereto, hereby represents, warrants and certifies to, and covenants and agrees with, Lender as follows:

1. Attached hereto as Exhibits C, D, E and F, respectively, are true, complete and correct copies of the Deed ("BRA Deed") made by the BRA to the City of Boston dated October 12, 1979, as heretofore amended, the Land Disposition Agreement ("LDA") dated October 12, 1979 made among the BRA, the City of Boston and Place Associates, as heretofore amended, the agreement ("Tripartite Agreement") dated as of December 22, 1978, among the BRA, the City of Boston and Place Associates, as heretofore amended, and the Sale and Construction Agreement ("S&C Agreement") made among the BRA, the City of Boston, Alstores Realty Corporation, Al-Jordan Realty Corp. and Jordan Marsh Company, dated as of December 22, 1978, as heretofore amended (the BRA Deed, the LDA, the Tripartite Agreement and the S&C Agreement, being collectively referred to herein as the "Founding Documents").

2. Each of the Founding Documents is in full force and effect and no default or event of default on the part of any party thereunder has occurred or is continuing to occur, and no event has occurred or is continuing to occur, which with notice or the passage of time or both would constitute either such a default or event of default.

3. The BRA has given all consents and approvals required under the Founding Documents with respect to the construction of Improvements I and Improvements II, including, without limitation, its approval of the plans and specifications identified on Exhibit G attached hereto.

4. The BRA shall give Lender notice of each and every default or event of default which occurs and of which the BRA has knowledge with respect to the obligations of Parking Associates and of Place Associates under any of the Founding Documents and with respect to any obligations of the City of Boston under any of the Founding Documents which Parking Associates is obligated to perform or undertakes to perform, and Lender shall have the opportunity to cure such defaults or events of default as follows:

(a) In the case of a default or event of default which is curable by the payment of money, Lender shall have 10 business days in which to cure such default or event of default from the date on which Lender receives the BRA's notice that the right, if any, of Parking Associates or Place Associates or both, as the case may be, to cure such default or event of default has lapsed;

(b) In the case of a non-monetary default or event of default which is curable without taking possession of Premises I or Premises II or some portion thereof, Lender shall have 30 business days in which to cure such default or event of default from the date on which Lender receives the BRA's notice that the right, if any, of Parking Associates or Place Associates or both, as the case may be, to cure such default or event of default has lapsed;

(c) In the case of a non-monetary default or event of default which is not curable without taking possession of Premises I or Premises II or some portion thereof, or which otherwise cannot be cured without the exercise of Lender's rights and remedies under its mortgage or other security documents with respect to the Loan I or Loan II, Lender shall have such time (not in excess of 90 days), from the date on which Lender receives the BRA's notice that the right, if any, of Parking Associates or Place Associates or both, as the case may be, to cure such default or event of default has lapsed, as may reasonably be necessary to exercise such rights and remedies and to cure such default or event of default, provided that Lender shall diligently prosecute such rights and remedies and thereafter such cure; and

(d) In the case of a default or event of default which is incurable, such as, but not by way of limitation, bankruptcy of Parking Associates or Place Associates or both, Lender shall have such time (but not in excess of 90 days) from the date on which Lender receives the BRA's notice of such default or event of default as may

be necessary to exercise Lender's rights and remedies under its mortgage or other security documents with respect to Loan I and Loan II to obtain the leasehold estate and other right, title and interest in and under the Lease of Parking Associates or the right, title and interest of Place Associates in and to Premises II, or both, as the case may require, provided that Lender diligently prosecutes such rights and remedies, whereupon such default or event of default of Parking Associates or Place Associates or both shall no longer be deemed to be a default or event of default.

The BRA further covenants and agrees with Lender that Lender shall have the right to cure defaults or events of default by Parking Associates or Place Associates or both with respect to any of the Founding Documents as aforesaid through the use of a nominee or designee and that none of the Founding Documents shall terminate or expire automatically, notwithstanding any provisions of the Founding Documents to the contrary, nor shall the BRA exercise any right of termination or other right or remedy under any of the Founding Documents, or any other right or remedy otherwise available to the BRA, due to any such default or event of default until the opportunity to cure such default or event of default or to obtain the leasehold estate and other right, title and interest in and under the Lease of Parking Associates or the right, title and interest of Place Associates in and to Premises II, or both, as the case may require, shall have been afforded Lender or its nominee or designee as aforesaid and such default or event of default shall not have been cured or waived as aforesaid, and the BRA further covenants and agrees that, in the event Lender should exercise its rights and remedies in the cases described in paragraphs (c) or (d) above and, whether by a foreclosure sale or otherwise, a third party should obtain the leasehold estate and other right, title and interest in and under the Lease of Parking Associates or the right, title and interest of Place Associates in and to Premises II, or both, as the case may be, the BRA shall afford said third party an opportunity to cure the default or event of default or shall waive the default or event of default, as the case may require, on the terms set forth above on which such opportunity is afforded to Lender. Notwithstanding the foregoing, the Lender shall be entitled to the foregoing benefits only if, within 30 days after any such default or event of default, it shall notify and agree with the BRA that it wishes to have such benefits and that it shall diligently proceed to cure such default or event of default and effect such cure within 90 days.

5. The Lease and Parking Associates' rights, title and interest thereunder and Lender's rights thereunder and

2/17/82

under this Statement and Agreement shall not be affected by the termination of any of the Founding Documents, including, without limitation, reverter to the BRA of the whole or any portion of Premises I under the Deed, due to default or failure of performance on the part of the City of Boston or Place Associates, and the BRA hereby further covenants and agrees that, in the event the BRA should become the fee owner of the whole or any portion of the Premises I, the BRA shall recognize the Lease and Parking Associates' and Lender's rights thereunder and hereunder and will thereby establish direct privity of estate and contract between the BRA and Parking Associates and Lender as if the Lease had been originally made between the BRA and Parking Associates.

6. The rights given to Lender under this Statement and Agreement shall be cumulative with any other rights afforded Lender under the Founding Documents and shall continue for the benefit of Lender not only with respect to Loan I and Loan II, but also with respect to any other loan or financing transaction entered into by Lender to finance directly or indirectly the construction of Improvements I or Improvements II.

IN WITNESS WHEREOF, the undersigned has caused this Statement and Agreement to be executed by its duly authorized representative as a sealed instrument this ____ day of _____, 1982.

BOSTON REDEVELOPMENT AUTHORITY

By _____